IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

AT MARTINSBURG

STEVEN E. FRADDOSIO

Plaintiff,

v. **Case No. 3:10-cv-87**

PROCTOR FINANCIAL, INC., and
CLAIM ADJUSTMENT SPECIALISTS, INC.

Defendants.

REPORT OF THE PARTIES' PLANNING MEETING

1. The following persons participated in a Rule 26(f) conference on October 20, 2010 by telephone:

- Kimberly A. Fitzwater, representing the Plaintiff
- Laura E. Hayes, representing Defendants Proctor Financial, Inc. and Claim Adjustment Specialists, Inc.

2. Initial Disclosures. The parties will complete by November 22, 2010, the initial disclosures required by Rule 26(a)(1).

3. Discovery Plan. The parties propose this discovery plan:

(a) Discovery will be needed on these subjects:

- What the insurance policy in question provides in coverages, if any, to Mr. Fraddosio for the fire loss of August 3, 2009.

- The claims handling activities of Defendants Proctor Financial, Inc. and/or Claim Adjustment Specialists, Inc. regarding the fire loss of August 3, 2009.

- Whether, and how, any activities of Defendants Proctor Financial, Inc. and/or Claim Adjustment Specialists, Inc. violated the West Virginia Unfair Trade Practices Act and/or constituted common law bad faith as defined under West Virginia law

- Whether, and how, any activities of Defendants Proctor Financial, Inc. and/or Claim Adjustment Specialists, Inc. caused any damages to Plaintiff

- If any activities of Defendants Proctor Financial, Inc. and/or Claim Adjustment Specialists, Inc. caused any damages to Plaintiff, the nature and extent of such damages

(b) Discovery may commence immediately following the entry of the scheduling order, and should be completed by the end of July 2011.

(c) In the absence of a stipulation or a court order, the presumptive limits on the number of interrogatories and the presumptive response deadlines contained in the Federal Rules of Civil Procedure should apply in this matter.

(d) In the absence of a stipulation or a court order, the presumptive limits on the number of interrogatories and the presumptive response deadlines contained in the Federal Rules of Civil Procedure should also apply to requests for admission in this matter.

(e) In the absence of a stipulation or a court order, the presumptive limits on the number of depositions contained in the Federal Rules of Civil Procedure should apply in this matter.

(f) In the absence of a stipulation or a court order, the presumptive limits on the length of depositions, in hours, contained in the Federal Rules of Civil Procedure should apply in this matter.

(g) Plaintiff should submit expert reports pursuant to Rule 26(a)(2) by the end of April, 2011.

Defendants should submit expert reports pursuant to Rule 26(a)(2) by the end of May, 2011.

Any rebuttal expert reports should be submitted by June 15, 2011.

(h) Any supplementation of discovery responses under Rule 26(e) should be served by the end of April, 2011.

4. Other Items:

(a) The parties do not request a meeting with the Court prior to the entry of a scheduling order.

(b) The parties request a pretrial conference in October of 2011.

(c) The deadline for Plaintiff to amend pleadings and/or join additional parties should be the end of January, 2011.

(d) The deadline for Defendants to amend pleadings and/or join additional parties should be the end of February, 2011.

(e) The dispositive motion deadline should be the end of August, 2011, with oppositions to be filed by the end of September 15, 2011, and replies by September 30, 2011.

(f) The prospects for settlement are fair.

(g) Mediation may aid in settlement. However, the parties ask the Court not to impose deadlines for such. To the extent mediation will aid in settlement, the parties are capable of arranging for it on their own.

(h) Rule 26(a)(3) disclosures should be made by the end of September, 2011.

(i) Objections under Rule 26(a)(3) should be made by October 15, 2011.

(j) The parties suggest a trial date in Nov, 2011. The trial of this matter should last 5 days.

Date: October 21, 2010

s/ Kimberly A. Fitzwater (w/ permission)
Kimberly A. Fitzwater (WV State Bar # 6510)
218 S. Maple Avenue, Suite B
Martinsburg, WV 25401
Counsel for Plaintiff

s/ Laura E. Hayes
Don C.A. Parker (WV State Bar # 7766)
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CERTIFICATE OF SERVICE

I, Laura E. Hayes, hereby certify that on this 21st day of October, 2010, I electronically filed the foregoing **Report of the Parties' Planning Meeting** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Kimberly A. Fitzwater, Esq.
218 S. Maple Avenue, Suite B
Martinsburg, WV 25401
Counsel for Plaintiff

s/ Laura E. Hayes
Laura E. Hayes (WV State Bar # 7345)